

Section 13a.8 of the Motor Fuel Tax Law, 35 ILCS 505/13a.8, allows licensed receivers to file claims for credit. These provisions, however, do not apply to unlicensed receivers. (This is a GIL).

May 10, 1999

Dear Xxxxx:

This letter is in response to your letter dated March 19, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

IT IS OUR UNDERSTANDING, AFTER TALKING TO MANY PEOPLE IN THE EXCISE TAX DEPT. OF THE STATE OF ILLINOIS, THAT ILLINOIS DOES NOT CHARGE ENVIRONMENTAL FEES AND UST TAX FOR GALLONS OF MOTOR FUEL THAT ARE EXPORTED OUT OF THEIR STATE.

BETWEEN THE 17TH OF FEBRUARY, 1998 AND 30TH OF JUNE, 1998, WE LOST OUR BLENDERS LICENSE. OUR SUPPLIERS WERE REQUIRED TO COLLECT ILLINOIS TAXES FROM US DURING THAT TIME (EVEN IF WE EXPORTED THOSE LOADS). WE ALSO PAID MISSOURI THEIR TAX THROUGH A MISSOURI RETURN. WE THEN FILED FOR A REFUND FROM ILLINOIS AS THE GALLONS LEFT THE STATE. WE HAVE RECEIVED THE EXCISE TAX REFUNDS, BUT ARE FIGHTING TO GET THE \$11,198.72 THAT SHOULD NOT HAVE BEEN PAID TO ILLINOIS FOR THE ENVIRONMENTAL FEES AND UST TAX.

THE STATE OF ILLINOIS TOLD US TO CONTACT MISSOURI AND GET OUR REFUND. FIRST OF ALL, MISSOURI IS ENTITLED TO THE TAX--ILLINOIS IS NOT. SECOND THE TAX RATES ARE NOT THE SAME. ILLINOIS TELLS US THEY HAVE NO PROVISION FOR REFUNDING THOSE FUNDS.

IF THE STATE OF ILLINOIS IS NOT ENTITLED TO THOSE FUNDS, THEN THERE HAS TO BE A WAY FOR THEM TO MAKE IT RIGHT WITH THE TAXPAYER. IT IS ILLEGAL IN THIS COUNTRY TO DOUBLE TAX.

PLEASE NOTIFY US AS TO HOW WE CAN GET REIMBURSED. ALL WE ARE ASKING IS FOR WHAT'S DUE US, WHAT IS RIGHTFULLY OURS.

I HAVE ENCLOSED A CALCULATION TO SHOW HOW THE REFUND AMOUNT WAS ARRIVED AT. THE STATE OF ILLINOIS EXCISE TAX DEPARTMENT HAS ALL DOCUMENTATION SHOWING THOSE GALLONS WERE EXPORTED. IF THERE IS NO PROVISION ESTABLISHED THEN IT IS TIME TO DO SOMETHING ABOUT IT AND OWN UP TO WHAT IS RIGHT.

May 10, 1999

SHOULD YOU NEED ANY ADDITIONAL INFORMATION, PLEASE LET ME KNOW. I
AWAIT A REPLY ON HOW WE CAN GET OUR REFUND.

Section 2a of the Motor Fuel Tax Law, 35 ILCS 505/2a, imposes an Underground Storage Tank Tax at the rate of three-tenths of a cent per gallon upon the privilege of being a receiver in this State of fuel for sale or use. In addition, Section 310 of the Environmental Impact Fee Law, 35 ILCS 125/310, imposes upon all receivers of fuel an environmental impact fee of \$60 per 7,500 gallons of fuel, or an equivalent amount per fraction thereof, that is sold or used in Illinois. The receiver in this State who first sells or uses fuel shall pay such tax and fee.

Section 3c of the Motor Fuel Tax Law, 35 ILCS 505/3c, provides that no person shall act as a receiver of fuel within this State without first securing a license from the Department to act as a receiver of fuel. Licensed receivers may make tax-free sales of fuel to other licensed receivers in Illinois. However, tax is due when a licensed receiver makes a sale to an unlicensed receiver. Licensed receivers may also make tax-free sales of fuel which are delivered to points outside of Illinois.

Section 13a.8 of the Motor Fuel Tax Law, 35 ILCS 505/13a.8, allows licensed receivers to file claims for credit. These provisions, however, do not apply to unlicensed receivers.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.